

# Exhibit 2

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

**Richard Lupardus, on Behalf of Himself  
And on Behalf of All Others Similarly  
Situated,**

**Plaintiff,**

**v.**

**Civil Action No. 2:19-cv-00529**

**Elk Energy Services, LLC,**

**Defendant.**

**DECLARATION OF JOHN NEUMAN**

The Undersigned declares as follows:

1. My name is John Neuman. I am over the age of twenty-one years of age, of sound mind, and competent to make this declaration. I swear under penalty of perjury that the facts stated within this declaration are true and correct.
2. I am a founding partner of Sosa-Morris Neuman, PLLC. I have been licensed to practice law since November of 2012. I am an attorney in good standing in the State of Texas and following federal courts:
  - Southern District of Texas
  - Northern District of Texas
  - Eastern District of Texas
  - District of Colorado
  - District of North Dakota
3. I am currently admitted or have been admitted pro hac vice in the Eastern District of Louisiana, the District of Arizona, Oklahoma (state court), Southern District of New York, the Northern District of California, the Southern District of Ohio, the District of New Mexico, the Middle District of Pennsylvania, and the Western District of Oklahoma, Southern District of West Virginia, and Eastern District of Michigan among other courts.
4. I have an undergraduate degree from the University of Texas and graduated from the University of Houston Law Center.
5. In January of 2017, I co-founded Sosa-Morris Neuman, PLLC where my current focus is plaintiff side FLSA litigation. Altogether, my legal practice for the last five plus years has

been at least 80% FLSA litigation and most of that has involved cases litigated on a collective basis brought across the country.

6. My partner, Beatriz Sosa-Morris also performed work on this case. She has been licensed for over nine years and is in good standing and admitted to practice in the State of Texas and the following federal courts: Fifth Circuit Court of Appeals, Southern District of Texas Western District of Texas, Eastern District of Texas, Northern District of Texas, and District of Colorado. In her career, she has also been admitted *pro hac vice* in numerous other federal districts including the Eastern District of Louisiana, Western District of Louisiana, District of Arizona, Western District of Oklahoma, and other courts. She is familiar with many aspects of Fair Labor Standards Act (“FLSA”), including but not limited to, misclassification issues, exemptions, waivers, arbitration agreements, class waivers, representative discovery, overtime calculations, tip credit, good faith, willfulness, and FLSA damages. She has represented employees in FLSA matters for over eight years and has settled millions of dollars in FLSA claims. She has argued before the Fifth Circuit on novel FLSA exemption issues. She has also prevailed on numerous issues including but not limited to: conditional certification motions, on issues of representative discovery, on the application of exemptions, in misclassification cases, in off the clock claims, on FLSA waivers, in tip credit application cases, on good faith defenses, and on willfulness. She has litigated issues regarding the calculation of overtime, deposed numerous corporate representatives pursuant to Fed. R. Civ. P. 30(b)6, presented numerous FLSA settlements for approval, litigated FLSA damages, prevailed in invalidating a class waiver, and prevailed in opposing motions to compel arbitration. Moreover, she has also litigated FLSA cases in arbitration before the AAA, JAMS, and with private arbitrators.
7. The following is a non-exclusive list of cases where Sosa-Morris Neuman, PLLC has obtained FLSA conditional certification and acted as class counsel:
  - *Branham v. IMI Investments*, Case No. 4:19-cv-2251 (S.D. Tex.)
  - *Estep v. KRH, Inc.*, Case No. 1:19-cv-4 (D.N.D.)
  - *Lupardus v. Elk Energy Services, LLC*, Case No. 2:19-cv-529 (S.D. W. Va.)
  - *Reid v. Asset Protection & Security Services, L.P.*, Case No. 1:18-cv-89 (S.D. Tex.)
  - *Singleton v. Profrac Services, LLC*, Case No. 7:20-cv-37 (W.D. Tex.)
  - *Weathers v. CAM Field Solutions LLC*, Case No. 4:19-cv-4248 (S.D. Tex.)
  - *Berrisford v. Southwinds Inspection Corp.*, Case No. 1:17-cv-117 (D.N.D.)
  - *DeArmond v. Alliance Energy Services, LLC*, Case No. 2:17-cv-2222 (E.D. La.)
  - *Esparza v. Arandas Franchises Inc.*, Case No. 4:17-cv-2586 (S.D. Tex.)
  - *Goudge v. ACE NDT, LLC*, Case No. 5:18-cv-130 (W.D. Tex.)
8. Our firm handles cases brought by employees to recoup their unpaid wages across the country against a variety of industries, from oil and gas workers to restaurant servers.
9. Sosa-Morris Neuman, PLLC maintains contemporaneous time records to reflect work performed in cases where attorneys’ fees are recoverable. The work performed produces of lodestar of approximately \$42,600. Our litigation expenses are \$1,025.99. Attorneys’

fees are likely to continue to accrue due to any settlement approval hearing or from issues administering the settlement.

10. To arrive at this lodestar, Sosa-Morris Neuman, PLLC exercised significant billing judgment by removing from the list of billable time multiple entries for inner-office meetings to discuss strategy, communication with clients, and clerical tasks such as downloading filings from ECF.
11. The hourly rate Sosa-Morris Neuman, PLLC billed for attorney time in this case was \$350.00 an hour. The hourly rates and fees charged by myself and/or other attorneys are more than reasonable for counsel in the West Virginia legal community. Our physical office is in Houston, Texas and I have billed at a rate of \$450 in the Houston, Texas legal community as an associate and partners have billed at a rate of \$600 in the Houston, Texas legal community. Nevertheless, the market in West Virginia has approved attorney fee hourly rates in FLSA cases of up to \$650 an hour. *Young v. Act Fast Delivery of W. Va., Inc.*, No. 5:16-cv-09788, 2020 U.S. Dist. LEXIS 148989, at \*14 n.1 (S.D. W. Va. Aug. 18, 2020) (approving hourly rates of \$400-\$500 an hour in a FLSA case); *Deskins v. S. W. Va. Cmty. & Tech. Coll.*, Civil Action No. 2:18-cv-01109, 2020 U.S. Dist. LEXIS 203452, at \*10 (S.D. W. Va. Nov. 2, 2020) (approving an hourly rate of \$350 in a FLSA case); *Johnson v. Ford Motor Co.*, No. 3:13-cv-06529, 2018 WL 1440833, at \*5-6 (S.D.W. Va. Mar. 22, 2018) (collecting cases and concluding “that the prevailing rates for attorney services in this jurisdiction range from \$150 to \$550 per hour”).
12. Sosa-Morris Neuman, PLLC is currently a two-attorney firm. Time restraints limit the number of cases we are able to take. We assume the risk of non-payment in every case. Wage and hour cases of this type are, by their very nature, complicated and time consuming. Lawyers undertaking representation of large numbers of affected employees in such actions inevitably must be prepared to make tremendous investments in time, energy, and resources. Due also to the contingent nature of the fee agreement in these types of cases, lawyers are asked to be prepared to make an investment with the very real possibility of an unsuccessful outcome or no fee at all.
13. From my experience litigating this case, and from my experience litigating numerous other wage and hour collective actions, I believe the proposed settlement is reasonable and the hours our firm expended to reach this settlement were reasonable and necessary.

Signed on April 26, 2021.

/s/ John Neuman

John Neuman  
Sosa-Morris Neuman, PLLC  
5612 Chaucer Drive  
Houston, Texas 77005